

The sole issue remaining is the Examiner's rejection of claims 1-20, being all pending claims, under 35 U.S.C. 103(a) as unpatentable over Cool Ice User's Guide Release 1.0 in view of *Classic Mapper User's Guide*. AS earlier explained, neither of these references is deemed to be an enabling reference in and of themselves. Both are "User's Guides". Though either can teach how to use an invention, neither teaches how to "make" an invention. However, both evidence actual commercial products clearly on sale and in the public domain, which constitute prior art under 35 U.S.C. 102(a) and (b). Thus, in referring to the prior art nature of these references, it has been convenient to consider them representative of the corresponding prior art product, though neither reference is considered enabling prior art in itself.

The Examiner has admitted that the Cool ICE User's Guide does not "... disclose transfer of an unavailability message", which is limiting of all pending claims. However, the Examiner has clearly erroneously found:

***Classic Mapper User's Guide*** teaches transfer of messages that let the user know the status of the system [see page 19-3 and 19-4].

This argument was first presented in the second official action. Applicant provided extensive argument concerning this finding in response thereto, because this clearly erroneous finding is determinative of the patentability of all pending claims.

For whatever reason, the Examiner has disregarded these arguments. Therefore, Applicant submits herewith the Declaration of Barbara Christensen under 37 C.F.R. 1.132 which directly rebuts the crucial fact finding of the Examiner. Ms. Christensen is deemed to be one of skill in the art having substantial experience with the actual prior art product, Classic MAPPER Database Management System. It is apparent from her sworn statement that the Examiner's position is unsupportable.

The declaration of Ms. Christensen could not have been earlier presented, because the underlying issue was not yet ripe. The first official action did not mention the corresponding fact finding.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-20, as amended, being the only pending claims.

Respectfully submitted,

Niels Gebauser

By his attorney,

Lawrence M. Nawrocki

Lawrence M. Nawrocki

Reg. No. 29,333

Suite 401

Broadway Place East

3433 Broadway Street N.E.

Minneapolis, Minnesota

55413

(612) 331-1464

Date

February 5, 2002